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## ENERGY AND ENVIRONMENT CABINET

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R. BRUCE SCOTT  
DEPUTY SECRETARY

December 2, 2016

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
William Jefferson Clinton Building  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

**Re: Maryland's Section 126(b) petition under the Clean Air Act**

Dear Administrator McCarthy,

On behalf of the Commonwealth of Kentucky, the Energy and Environment Cabinet (Cabinet) requests that the Administrator of the United States Environmental Protection Agency (EPA) deny the petition filed by the State of Maryland pursuant to Section 126(b) of the Clean Air Act. On November 16, 2016, the State of Maryland, through their Department of the Environment (MDE) petitioned the EPA to abate emissions from thirty-six (36) coal-fired electric generating units in five upwind states that supposedly contribute to Maryland's nonattainment with the ozone national ambient air quality standard (NAAQS) revised in 2008. MDE's petition lacks an accurate technical analysis and fails to consider a recent EPA rulemaking.

There are several reasons why EPA should deny the petition filed by MDE. Most notably is the fact that the ozone ambient air monitors operated in and around Maryland demonstrate compliance with the 2008 Ozone NAAQS of 0.075 parts per million (ppm).<sup>1</sup> Further, the petition fails to provide an adequate justification, including appropriate cost analysis, of why Kentucky sources should be required to address Maryland's current emissions problems. Finally, the petition fails to account for and ignores EPA's recent revisions to the Cross-State Air Pollution Rule (CSAPR).<sup>2</sup>

Attached to this letter, please find the Design Value Report (AMP480) from EPA's Air Quality Surveillance Network. The design values for Maryland's ozone monitors demonstrate compliance with the 2008 Ozone NAAQS. Therefore, the 126 petition filed by MDE is unnecessary to achieve compliance with the 2008 Ozone NAAQS and EPA should immediately deny the petition.

Additionally, a review of the emissions in the Baltimore MD Ozone Nonattainment area clearly demonstrates that Kentucky sources did not significantly contribute to Maryland's previous violations of the 2008 Ozone NAAQS. MDE quantifies the emissions in the nonattainment area to be 285 tons per day

<sup>1</sup> <https://www.epa.gov/air-trends/air-quality-design-values#report>; 2013-2015 Design Value (ppm) Baltimore, MD = 0.071 ppm; Washington, DC-MD-VA = 0.070 ppm

<sup>2</sup> 81 FR 74504

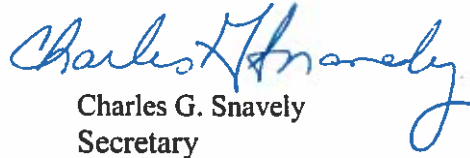
of NO<sub>x</sub> and 163 tons per day of VOC during the ozone season. Furthermore, the annual emissions of NO<sub>x</sub> in the Baltimore MD Nonattainment area are 81,130.69 tons per year and 50,405 tons per year of VOC. The significant local impact is causing the poor air quality in Maryland and should be addressed prior to EPA over-controlling Kentucky sources.

In the petition, MDE identified three (3) Kentucky emission sources as purportedly contributing to MDE's failure to attain the 2008 ozone national ambient air quality standard. The Kentucky sources are identified as East Bend Unit 2, Elmer Smith Unit 1, and Paradise Unit 3, and MDE specifically requests EPA to impose more stringent emission limitations for nitrogen oxides (NO<sub>x</sub>), 0.067 lb/mmBtu, 0.159 lb/mmBtu, and 0.120 lb/mmBtu, respectively. The petitioned emission limitations requested by MDE for the Kentucky sources are more stringent than the emission rates achieved by thirty-two (32) units operating in Maryland. To say it another way, 32 units operating in Maryland would exceed the NO<sub>x</sub> emission limitations requested through the petition for Kentucky facilities.

Finally, the remedy requested by MDE through the 126 petition is unnecessary and redundant given EPA's recent revisions to the CSAPR and the ozone season budgets that were published in the *Federal Register* on October 26, 2016. Through the recent rulemaking, EPA is requiring the Kentucky sources identified in the petition to reduce their emissions by more than 2,000 tons of NO<sub>x</sub> during the ozone season or acquire allowances while complying with all other applicable requirements.<sup>3</sup> The emission reductions CSAPR provides are greater than the remedy proposed by MDE.

If EPA grants the petition, Kentucky sources will be required to reduce emissions at an economic penalty, whereas Maryland can continue to promote economic growth and increase emissions.<sup>4</sup> For this reason alone, EPA should deny the petition and not place Kentucky industries at an unfair, unreasonable economic disadvantage.

Sincerely,

  
Charles G. Snavely  
Secretary

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<sup>3</sup> 40 CFR 97, Subpart BBBBB

<sup>4</sup> Baltimore MD Ozone Nonattainment Area 2011 Base Year Emissions Inventory: "Many sources are required by COMAR 26.11.02, Permits, Approvals and Registration, to register with ARMA. From 700 to 1,000 new sources are registered with the Department each year."

User ID: FNX

DESIGN VALUE REPORT

Report Request ID: 1499460

Report Code: AMP480

Nov. 28, 2016

GEOGRAPHIC SELECTIONS

Tribal Code	State	County	Site	Parameter	POC	City	AQCR	UAR	CBSA	CSA	EPA Region
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24

PROTOCOL SELECTIONS

Parameter Classification	Parameter	Method	Duration
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DESIGN VALUE 44201

SELECTED OPTIONS

Option Type	Option Value
SINGLE EVENT PROCESSING	EXCLUDE REGIONALLY CONCURRED EVENTS
WORKFILE DELIMITER	,
USER SITE METADATA	STREET ADDRESS
MERGE PDF FILES	YES
QUARTERLY DATA IN WORKFILE	NO
AGENCY ROLE	PQAO

DATE CRITERIA

Start Date	End Date
2015	2015

APPLICABLE STANDARDS

Standard Description
Ozone 8-hour 2015

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
 AIR QUALITY SYSTEM  
 PRELIMINARY DESIGN VALUE REPORT

Report Date: Nov. 28, 2016

Pollutant: Ozone(44201)

Design Value Year: 2015

Standard Units: Parts per million(007)

REPORT EXCLUDES MEASUREMENTS WITH REGIONALLY CONCURRED EVENT FLAGS.

NAAQS Standard: Ozone 8-hour 2015

Statistic: Annual 4th Maximum Level: .07

State: Maryland

Site ID	Poc STREET ADDRESS	2015				2014				2013				3 - Year		D. V. Validity
		Valid Days	Percent Complete	4th Max	Cert& Eval	Valid Days	Percent Complete	4th Max	Cert& Eval	Valid Days	Percent Complete	4th Max	Cert& Eval	Percent Complete	Design Value	
24-003-0014	Davidsonville Recreation Center, 3801 Queen Anne Bridge Road	209	98	.071	S	211	99	.066	Y	202	94	.071	Y	97	.069	Y
24-005-1007	Padonia Elementary School, 9834 Greenside Drive	197	92	.078	S	195	91	.067	Y	209	98	.068	Y	94	.071	Y
24-005-3001	600 Dorsey Avenue	208	97	.072	S	210	98	.068	Y	212	99	.067	Y	98	.069	Y
24-009-0011	350 Stafford Road	203	95	.067	S	212	99	.070	Y	207	97	.067	Y	97	.068	Y
24-013-0001	1300 W. Old Liberty Road	209	98	.070	S	213	100	.064	Y	206	96	.068	Y	98	.067	Y
24-015-0003	Fair Hill Natural Resource Mgmt Area, 4600 Telegraph Road	190	89	.074	S	204	95	.074	Y	210	98	.072	Y	94	.073	Y
24-017-0010	14320 Oaks Road	210	98	.068	S	205	96	.070	Y	196	92	.066	Y	95	.068	Y
24-019-0004	University of Maryland for Environmental and Estuarine Studies	205	96	.061	S	211	99	.065	Y	202	94	.067	Y	96	.064	Y
24-019-9991	Blackwater National Wildlife Refuge, Cambridge, MD 21613	214	100	.065	S	204	95	.065	Y	206	96	.068	Y	97	.066	Y
24-021-0037	Frederick County Airport, 180 E Airport Drive	206	96	.070	S	205	96	.063	Y	204	95	.069	Y	96	.067	Y
24-023-0002	Piney Run, Frostburg Reservoir, Finzel	204	95	.067	S	210	98	.063	Y	210	98	.064	Y	97	.064	Y

- Notes:**
1. Computed design values are a snapshot of the data at the time the report was run (may not be all data for year).
  2. Some PM2.5 24-hour DVs for incomplete data that are marked invalid here may be marked valid in the Official report due to additional analysis.
  3. Annual Values not meeting completeness criteria are marked with an asterisk (\*\*).

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		Valid Days	Percent Complete	4th Max	Cert& Eval	Valid Days	Percent Complete	4th Max	Cert& Eval	Valid Days	Percent Complete	4th Max	Cert& Eval	Percent Complete	Design Value	D. V. Validity
24-025-1001	Edgewood Chemical Biological Center (APG), Waehli Road	211	99	.074	S	213	100	.067	Y	207	97	.072	Y	99	.071	Y
24-025-9001	3560 Aldino Road	206	96	.073	S	206	96	.070	Y	204	95	.068	Y	96	.070	Y
24-029-0002	Millington Wildlife Management Area, Massey - Maryland Line Road (Route 330)	196	92	.072	S	212	99	.068	Y	201	94	.067	Y	95	.069	Y
24-031-3001	Lathrop E. Smith Environmental Education Center, 5110 Meadowside Lane	212	99	.072	S	210	98	.064	Y	207	97	.069	Y	98	.068	Y
24-033-0030	Howard University's Beltsville Laboratory, 12003 Old Baltimore Pike	204	95	.072	S	211	99	.065	Y	212	99	.068	Y	98	.068	Y
24-033-8003	PG County Equestrian Center, 14900 Pennsylvania Ave.	210	98	.069	S	208	97	.069	Y	211	99	.069	Y	98	.069	Y
24-033-9991	Powder Mill Rd, Laurel, MD 20708	208	97	.067	S	187	87	.069	Y	181	85	.072	Y	90	.069	Y
24-043-0009	MD Correctional Institution 18530 Roxbury Road	210	98	.067	S	208	97	.061	Y	210	98	.067	Y	98	.065	Y

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Site ID	Poc	STREET ADDRESS	2015				2014				2013				3 - Year		
			Valid Days	Percent Complete	4th Max	Cert& Eval	Valid Days	Percent Complete	4th Max	Cert& Eval	Valid Days	Percent Complete	4th Max	Cert& Eval	Percent Complete	Design Value	D. V. Validity
24-510-0054		Furley E.S. Recreational Center, 4633 Furley Avenue.	165	77	.072	S	203	95	.060	Y	185	86	.063	Y	86	.065	N

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
AIR QUALITY SYSTEM  
PRELIMINARY DESIGN VALUE REPORT

Report Date: Nov. 28, 2016

CERTIFICATION EVALUATION AND CONCURRENCE FLAG MEANINGS

FLAG	MEANING
M	The monitoring organization has revised data from this monitor since the most recent certification letter received from the state.
N	The certifying agency has submitted the certification letter and required summary reports, but the certifying agency and/or EPA has determined that issues regarding the quality of the ambient concentration data cannot be resolved due to data completeness, the lack of performed quality assurance checks or the results of uncertainty statistics shown in the AMP255 report or the certification and quality assurance report.
S	The certifying agency has submitted the certification letter and required summary reports. A value of "S" conveys no Regional assessment regarding data quality per se. This flag will remain until the Region provides an "N" or "Y" concurrence flag.
U	Uncertified. The certifying agency did not submit a required certification letter and summary reports for this monitor even though the due date has passed, or the state's certification letter specifically did not apply the certification to this monitor.
X	Certification is not required by 40 CFR 58.15 and no conditions apply to be the basis for assigning another flag value
Y	The certifying agency has submitted a certification letter, and EPA has no unresolved reservations about data quality (after reviewing the letter, the attached summary reports, the amount of quality assurance data submitted to AQS, the quality statistics, and the highest reported concentrations).

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